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IN THE SUPREME COURT
STATE OF ARIZONA

PETITION TO AMEND THE RULES
OF THE SUPREME COURT, SECTION
V, REGULATION OF THE PRACTICE
OF LAW, RULE 45

Supreme Court No. R-08-0003

**Comments of the State Bar of
Arizona Regarding Petition to
Amend Rule 45 of the Arizona Rules
of The Supreme Court.**

The State Bar of Arizona, pursuant to Rule 28, Arizona Rules of the
Supreme Court, hereby files the following comment opposing petition R-08-
0003 to amend Rule 45 Arizona Rules of the Supreme Court providing
continuing legal education credit for members participating in the Court's
Compulsory Arbitration program pursuant to Rule 73 of the Arizona Rules of
Civil Procedure.

1 The amending petition suggests that all members who participate in the
2 compulsory arbitration program be granted 2 hours of continuing legal
3 education credit. It has been the State Bar's experience that members of
4 standing bar committees request CLE credit for their service. It has always
5 been the State Bar's position that the time and knowledge shared by our
6 members in that manner is part of their service to the administration of justice
7 and the public. We respectfully ask the court not to open the floodgates.
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11 The State Bar of Arizona appreciates the service rendered by those who
12 generously volunteer with our committees. State Bar members devote
13 substantial amounts of time to fee arbitrations, peer reviews, rule revisions, the
14 creation of ethics opinions, the development of educational programs, and
15 writing jury instructions among many other activities. Putting a particular
16 value on one type of service could lead others to believe their service is less
17 appreciated or considered to be of less value to the State Bar and the
18 administration of justice generally. When mandatory activities require both a
19 carrot and a stick voluntary service may be undermined.
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23 The State Bar's current Mandatory Continuing Legal Education (MCLE)
24 regulations allow for up to 5 hours of CLE credit for self-study. All State Bar
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1 Members are eligible for up to 5 hours of continuing legal education credit
2 assuming the self-study meets the criteria set out in MCLE Regulations 101 (l)
3 and 104(5) (see below and the State Bar's website at
4 http://www.myazbar.org/MCLE/mcle_reg.cfm). Nothing in the regulation
5 prohibits its use by members preparing to be an arbitrator.
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7 STATE BAR OF ARIZONA REGULATIONS FOR 8 MANDATORY CONTINUING LEGAL EDUCATION

9 REGULATION 101, DEFINITIONS

10 Reg 101(L) .“Self-study” means any course of legal study
11 meeting the standards of Regulation 104 undertaken by an Active
12 member for the member's own benefit, and may include listening
13 to audio reproductions or viewing video reproductions of course
14 materials, but does not include reading. “Self-study” includes a
15 computer-based or on-line CLE program where the member does
16 not have the opportunity to respond to prompts initiated by the
17 faculty or placed within the course material. “Self-study” also
18 includes service on a legislative committee by a state or federal
19 elected legislative member. Such service qualifies a member as a
20 "lawyer/legislator" for the purposes of the Rule and these
21 regulations.

22 REGULATION 104. STANDARDS AND 23 CALCULATION OF HOURS

24 A.Standards.

25 CLE Activities that are claimed toward the annual requirement
shall meet the following standards:

- 22 1. Significant Content. The activities shall have significant
23 intellectual or practical content, have attorneys as the primary
24 audience, and have as the primary objective the increase of the
25 participant's professional competence as a lawyer.
2. Organized Program. The activities shall constitute an organized
program of learning, deal with matters directly related to the
practice of law, professional responsibility, professionalism, or

1 ethical obligations of lawyers, and follow the agenda defined by
2 the written materials or exercises distributed as part of the
3 activities.

4 3. Appropriate Setting. The activities shall be conducted in a
5 setting physically suitable to the educational activity of the
6 program.

7 **B. Calculation of Credit Hours.**

8 **5. Self-study Hours.** Credit may be earned for participation
9 in activities defined as Self-study in regulation 101(L).

10 a. Credit hours earned by Self-study of CLE program materials
11 shall be equal to the hours of presentation of the seminar on which
12 the materials are based, or the actual time spent in Self-study,
13 whichever is less.

14 b. An Active member may not receive credit for both attendance
15 at a CLE program and Self-study of course materials from that
16 program.

17 c. Credit hours earned through Self-study may be reported to
18 satisfy a maximum of 5 credit hours each Year. This maximum
19 does not apply to lawyers who are legislators.

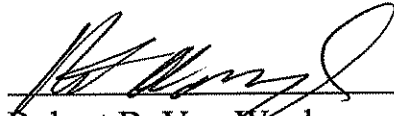
20 d. Written material must be in the possession of the Active
21 member viewing the video reproduction or listening to the audio
22 reproduction of a live CLE program at the time of such
23 viewing/listening. The Active member claiming Self-study credit
24 must have future access to the written material (such as in a
25 personal, firm or public library).

e. Verification of Self-study would include the purchase or rental
agreement, if applicable, notes made while viewing/listening, and
file notes establishing the date of Self-study, name of program,
and sponsor of the program.

The State Bar respectfully requests the court encourage the use of
existing provisions and not create a modified rule.

The State Bar respectfully opposes the petition to amend Rule 45 of the
Arizona Rules of the Supreme Court.

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2 RESPECTFULLY SUBMITTED this 11th day of May, 2008.
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7 Robert B. Van Wyck
8 Chief Bar Counsel
9 STATE BAR OF ARIZONA
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11 Electronic copy filed with the
12 Clerk of the Supreme Court of Arizona
13 this 6th day of May, 2008.

14 by: Kathleen A. Lundgren
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